

GOVERNMENT OF ANDHRA PRADESH  
ABSTRACT

Major Irrigation - Gandikota - CBR Lift Scheme Package No.LI-04/2006-07 - Writ Petition No.20115/2009 in WP.MP.No.26238 of 2009 - Difference in rate of interest @ 2.5% (10.50% - 8.00%) - on the recovery of Mobilization Advance - Refund of an amount of Rs.37,55,485/- - Permission accorded - orders - Issued.

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IRRIGATION & CAD (M&MI-R.III.2) DEPARTMENT

G.O.Ms.No. 39

Dated:23.06.2012

Read the following:-

1. From the Chief Engineer(Projects), Irrigation , Kadapa, Letter No.CE(P)/ Irrg./KDP/DCE.2/DEE.1/AE.1/LI-04/ dated:04-11-2011.
2. Govt.Memo.No.25754/M&MI-R.III/A2/2011-1, dated:16.11.2011.
3. From the Chief Engineer(Projects), Irrigation, Kadapa Letter.No.CE(P)/ I/KDP/DCE.2/DEE1/A.E.2/LI-04/81/07, dated:06.02.2012.

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ORDER :

The Chief Engineer(Projects), Irrigation , Kadapa in the letters 1<sup>st</sup> & 3<sup>rd</sup> read above has reported that the Lift Package LI-04 "Investigation, Design supply and erection of necessary lift systems with all electrical and mechanical components surge protection systems and all control valves for lifting 7.50 TMC in 45 days from storage Reservoir-3 (+248.00M) near Gaddamvaripalli viillage to Goddumarri anicut (+260.000) including improvements to Goddumarri Anicut to provide a capacity of 0.07 TMC in Anantapur District" was entrusted to M/s.L&T-KBL (JV), Chennai for Rs.332.00 Crores vide Superintending Engineer's Agreement No.9SE/2007-08, dated:18-8-2007.

2. The rate of interest at 10.5% on mobilization advance Rs.33,20,00,000/- to the tune of Rs.1,59,12,541/- was recovered from the running account bills of the Agency in terms of G.O.Ms.No.303, dated:19-10-2006 and G.O.Ms.No.292, dated:28-11-2007 as against the rate of interest (8%) provided in the Agreement Clause 49(1) of General conditions of Agreement. The difference rate of interest at 2.5% i.e (10.5% - 8%) to the tune of (Rs.1,59,12,541 - Rs.1,21,57,056) Rs.37,55,485/- was recovered in one lump.

3. Mean while, the Agency approached the Hon'ble High Court and filed WP.No.20115/2009 to set aside Memo.No.SE/CC.III/KDP/DB/D3/LI-04/42P, dated:17-2-2009 of respondent No.2 i.e., Superintending Engineer, Construction Circle III, Kadapa and for issuing a consequential direction to the respondents, not to recover the mobilization advance at the enhanced rate of interest.

4. The Hon'ble High Court in its judgment dated:19-7-2011 quashed the Superintending Engineer's Memo. to recover mobilization advance at the rate of 10.5%, and directed that the Petitioner is liable to pay interest at 8% per annum on the mobilization advance paid to it.

5. The Chief Engineer(P), Kadapa has obtained the opinion of the Government Pleader for Irrigation & CAD, High Court of A.P., Hyderabad, on the above High Court order. The Government Pleader opined that the chances of succeeding in appeal is remote and the judgment of the learned single judge is on proper appreciation of the facts and law on subject.

(P.T.O.)

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6. In view of the above circumstances, the Chief Engineer(P), Kadapa requested that Government permission may be accorded to refund 2.5%(10.5%-8.00%) to an amount of Rs.37,55,485/- which was recovered from the running account bills, so as to avoid further legal complications.

7. In the circumstances reported by the Chief Engineer(P), Irrigation, Kadapa and keeping in view the opinion of the Government Pleader for Irrigation & CAD, High Court of A.P., advice of Law Department, Government after careful examination hereby permit the Chief Engineer(P), Kadapa to refund difference in rate of interest @ 2.5% (10.5%-8.00%) to the tune of Rs.37,55,485/-(Rupees thirty seven lakhs fifty five thousand four hundred and eighty five only) on the recovery of mobilization advance to the agency M/s.Larsen&Toubro Limited - Kirloskar Brothers Limited (JV), Chennai in r/o the work: Gandikota CBR Lift Scheme Package No.LI-04/2006-07 by adjusting the amount to the following head of account:

"0049-Interest Receipts-MH 900 – Deduct Refunds SH 96 – Deduct Refunds” duly following the refund procedure.

8. The Chief Engineer(P), Irrigation, Kadapa is requested to take further action in the matter accordingly.

9. This order issues with the concurrence of Finance(W&P) Department vide their U.O.No.818/F5(A1)/12-2, dated:17.5.2012.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

B.ARAVINDA REDDY  
PRINCIPAL SECRETARY TO GOVERNMENT

To  
The Chief Engineer(Projects), Irrigation, Kadapa.

Copy to:-

The Accountant General, A.P, Hyderabad.

The Director of Works & Accounts, Hyderabad.

The Finance (W&P)Department.

The OSD to Minister(M&MI).

The PS to Principal Secretary(AR).

SF/SCs.

//FORWARDED::BY ORDER//

SECTION OFFICER